

Serial No. 10/691,907

### REMARKS

This amendment is responsive to the office action dated August 24, 2005.

Claims 1-19 were pending in the application. Claims 5, 6, 11 and 12 were rejected. Claims 1-4 and 17-19 were allowed. Claims 7-10 and 13-16 were determined to be allowable but were objected to.

By way of this amendment, the Applicant has amended claims 5 and 11. Claims 1-4, 6-10 and 12-19 remain unchanged.

Accordingly, Claims 1-19 are currently pending.

#### I. REJECTION OF CLAIMS UNDER 35 USC 102

Claims 5, 6, 11 and 12 were rejected under 35 USC 102(b), as being anticipated by US Patent No. 6,334,693 (Lee). The Examiner stated that Lee discloses a housing with a front end, a back end a top surface, a channel configured with complementary formations to slidably receive a tool and a closure element.

The Examiner states that Lee discloses a housing 10 including a primary compartment 19 for receiving a primary tool 11 and a channel 15 forming a secondary compartment proximate the back end of the housing for slidably receiving and retaining a flashlight. The difficulty is that in identifying the primary tool as 11, the Examiner is only identifying one piece of the primary tool disclosed in the Lee reference. Element 11 is simply the movable portion of an adjustable wrench. Therefore compartment 19 does not receive and retain a primary tool. The entire front end of the device in Lee is the primary tool. To operate as a tool part 11 must work in conjunction with part 17 thereby forming a wrench head. Accordingly, the Lee device does not have a housing that includes a first compartment that receives and retains a first tool, Lee has a first end that is formed as a tool that includes a compartment to receive one small portion of the tool. Lee is a wrench that includes a single compartment in its handle to receive a single flashlight.

It is clear from the drawings and disclosure in Lee that the device provides a tool at one end that has one and only one compartment in the side of the tool itself. Lee

Serial No. 10/691,907

discloses a pipe wrench that includes one compartment into which the flashlight tool is placed via an opening in the side of a primary tool. The handle of the primary tool serves as the one and only compartment. There is no primary housing for receiving a primary tool as disclosed and required by the claims of the present invention. The simple identification of a single moving part of the primary tool as the primary tool unto itself is a misinterpretation of the drawings and demonstrates a lack of understanding as to what a tool is within the understanding of one skilled in the art. One skilled in the art would never refer to the moving portion of the wrench as a tool unto itself. Anyone skilled in the relevant art would recognize that the tool is the entire front end of the device. Accordingly, the Lee device does not include a first tool in a first compartment but a first tool that has a compartment therein for receiving a second tool. Should it be defined any other way, it would not function as a tool.

This can clearly be contrasted with the device in claims 5 and 11 of the present invention that clearly provide a housing with two separate and distinct compartments for receiving two separate and distinct tools. To further clarify the structure of the claims of the present invention, the Applicant has amended the claims to positively claim that the channel receives and retains the secondary tool. The Applicant has removed the non-limiting language "adapted to" and instead used the adapted to language to more properly modify the mating formations within the channel rather than the channel itself. Additionally, the Applicant has eliminated the language proximate to in favor of the positive limitation located in the rear of the housing. Therefore, as amended the claims require that the channel in the housing receive and retain the secondary tool in a compartment at the rear of the housing, a feature not included in the cited Lee disclosure.

Since the present invention recites claimed subject matter that is not disclosed in Lee, the Lee reference cannot anticipate the present invention under §102(b). Accordingly, this rejection is not believed to be maintainable or applicable. Reconsideration, and withdrawal of the rejection is respectfully solicited.

Serial No. 10/691,907

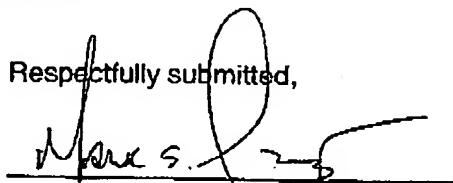
II. CONCLUSION

Accordingly, claims 1-19 are believed to be in condition for allowance and the application ready for issue.

Corresponding action is respectfully solicited.

PTO is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our account #02-0900.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark E. Tetreault", is written over a horizontal line.

Mark E. Tetreault, Esq.  
Reg. No. 48,289

BARLOW, JOSEPHS & HOLMES, Ltd.  
101 Dyer Street, 5<sup>th</sup> Floor  
Providence, RI 02903  
(401) 273-4446 (tel)  
(401) 273-4447 (fax)  
met@barjos.com